

**STATE BAR OF MICHIGAN
CHILDREN'S LAW SECTION
306 TOWNSEND
LANSING, MI 48933**

October 5, 2005

The Honorable John Stahl, Chair
House Family and Children Services Committee
Michigan House of Representatives
P.O. Box 30014
Lansing, MI 48909

RE: HB 4420

Dear Representative Stahl:

At its May 11, 2005 Council meeting, the Children's Law Section of the State Bar of Michigan discussed HB 4420, introduced by Representative Sheen. This legislation would amend section 8 of the Child Protection Law (MCL 722.628) to modify the circumstances under which the Department of Human Services is required to seek the assistance of and cooperate with law enforcement officials concerning possible child abuse or neglect by a parent or other person responsible for the child's care.

The Council is opposed to the legislation, as currently drafted, for the following reasons:

- By amending the definition of "severe physical injury" in subdivision (3)(c), this legislation limits the circumstances under which Children's Protective Services workers are mandated to work with law enforcement officials investigating suspected child abuse or neglect. Reducing mandated cooperation between CPS and law enforcement appears to be contrary to the dual public policies of protecting children and protecting the rights of parents/adults.
- Federal statutes, including the Child Abuse Prevention and Treatment Act (CAPTA, most recently reauthorized in 2003 by the Keeping Children and Families Safe Act of 2003), strongly encourage joint investigation by CPS and law enforcement and there may be fiscal implications to state legislation reducing the level of cooperation.
- Subsection 8(6) of the Child Protection Law specifically requires the prosecuting attorney and the Department of Human Services in each county to develop and establish procedures for involving law enforcement in child abuse and neglect investigations. The subsection further requires each county to develop and

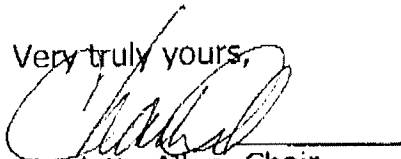
implement standard child abuse and neglect investigation and interviewing protocols, using as models those developed by the Governor's Task Force on Children's Justice. Amending subsection 8(3) to limit that cooperation would be inconsistent with the protocols being utilized in most counties of this state.

- The proposed amendment only limits mandatory cooperation and has no effect on when DHS may request the assistance of law enforcement, and, therefore, appears to only impact DHS practice in situations where DHS would prefer to not cooperate with law enforcement.
- The proposed amendment appears to have no impact on a court's authority to order removal and out-of-home placement of a child, take jurisdiction of a child, or enter dispositional orders impacting parents and other persons responsible for the child's care.

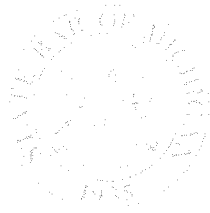
The Council is uncertain of the underlying intent of this legislation. It does not appear to either increase the protection of children or enhance the integrity of CPS investigations and does not appear to be necessary. We, therefore, encourage this committee to not move this bill.

As always, the Children Law Section's Council is willing to work with your committee on this, or any children's law related matter. Thank you for your consideration.

Very truly yours,



Charlotte Allen, Chair
Children's Law Section
State Bar of Michigan



The
CHILDREN'S LAW SECTION
respectfully submits the following position on:

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HB 4420

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The Children's Law Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Children's Law Section only and is not the position of the State Bar of Michigan. To date, the State Bar of Michigan does not have a position on this matter.

The total membership of the Children's Law Section is approximately 632.

The position was adopted by a vote of the Children's Law Section Council after having received a recommendation from the Children's Law Section Legislative Committee. The number of members in the decision-making body is 19. The number who voted in favor to this position was 16. The number who voted opposed to this position was 0.